

H.

C.A.No. 2142 OF 1999

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Item No.	Court No.	Section
111	03	III

S U P R E M E C O U R T O F I N D I A
Record of Proceedings

Civil Appeal No.2142 of 1999

M/s. APS Star Industries Ltd.	Appellant (s)
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vs.

Commissioner of Customs, Mumbai	Respondent(s)
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(with office report)

with Civil Appeal No. 3542/2000 (with office report)

Date:09/08/2001 This/These matter(s) was/were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For the Appellant (s): Mr. M L Verma, Sr. Adv.
Mr. J S Sinha, Mr. Randhir Singh and
Mr. Anjani Kumar Jha, Advs.

For the Respondent(s): Mr. Soli J Sorabjee, Attorney General
Mr. Dhruv Mehta, Adv.
Ms. Nisha Bagchi, Adv.
Mr. B K Prasad, Adv.

UPON hearing the counsel the Court made the following
ORDER

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The appeals are dismissed. No order as to costs.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2142 OF 1999@@
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M/s. APS Star Industries Ltd.

..Appellant(s)

vs.

Commissioner of Customs, Mumbai

..Respondent(s)

(with Civil Appeal No. 3542 of 2000)@@
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O R D E R@@
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The only question involved in these cases relates to the applicability of the Exemption Notification 26/88 which, according to the appellant, is applicable in regard to the imports made by it.

The appellant had imported two NOMOCO Centreless Grinding Machines from West Germany and had sought clearance of the goods as grinding machines and claimed benefit of the said notification. According to the appellant, the description of the goods fell under item No. 2 of the said Notification No. 26/88 which item reads as follows :

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"Outer diameter centreless grinder for spherical or cylindrical or taper or needle or rollers and/or bearing races."

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The Tribunal came to the conclusion that the decision of the Assistant Collector given after examining the relevant drawings to the effect that the machines in question did not fall in that category under Notification No. 26/88 is correct

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and observed that the appellant was not entitled to the benefit of the said notification. Hence, these appeals.

This Court in Aditya Mills Ltd. vs. Union of India,@@
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1988 (4) SCC 315 and in Collector of Customs, Bombay vs.@@
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Swastic Woollens (P) Ltd. and Others, 1988 (Supp.) SCC 796,@@
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has held that an appeal provided under Section 130-E of the Customs Act is essentially to enable this Court to oversee that the subordinate Tribunals act within the law. If the Tribunal and the authorities subordinate to it have considered all relevant factors and then come to a bonafide conclusion and pass a speaking order with regard to the nature of the goods imported and the entry under which the same fall, then it would not be within the jurisdiction of this Court to upset that finding of fact.

In the present case, the machines imported were examined and the finding of fact arrived at by the customs authorities and accepted by the Tribunal was that the machines in question were not entitled to the benefit of the Exemption Notification No. 26/88 as they did not answer the description

contained in item No. 2 therein. We are not satisfied that any principles of natural justice were in any way violated or that the authorities concerned did not act bonafide.

For the aforesaid reasons, these appeals are dismissed. No order as to costs.

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.....J.
(B.N. KIRPAL)

New Delhi;
August 9, 2001.

.....J.
(SHIVARAJ V. PATIL)